

IN THE COURT OF COMMON PLEAS  
SUMMIT COUNTY, OHIO

SHANNON L. HINES :  
3479 Kent Road :  
Stow, Ohio 44224 : Case No. 2005-10-6065  
:  
Plaintiff : Judge Shapiro  
:  
v. :  
CHARLES F. WALTON : **NOTICE TO THE ADVERSE  
2020 Front Street, Suite 301 : PARTY THAT ACTION  
Cuyahoga Falls, Ohio 44221 : HAS BEEN REMOVED**  
:  
and :  
:  
SMITHERS-OASIS COMPANY :  
2020 Front Street, Suite 301 :  
Cuyahoga Falls, Ohio 44221 :  
:  
Defendants. :  
:

**TO SHANNON L. HINES AND TO HER ATTORNEYS OF RECORD:**

TAKE NOTICE that Charles F. Walton and Smithers-Oasis Company, Defendants in this action, have filed a Notice of Removal of this action with the United States District Court for the Northern District of Ohio, Eastern Division.

A copy of the Notice of Removal filed in the Office of the Clerk of the United States District Court for the Northern District of Ohio, Eastern Division, dated November 4, 2005, is attached as Exhibit 1. A copy of this Notice has also been provided to the Clerk of the Court of Common Pleas, Summit County, Ohio. (See Exhibit 2.)

The removal of this action was authorized by 28 U.S.C. §§ 1331, 1441(b) and 1446.

The filing of a copy of the Notice of Removal with the Clerk of the Court of Common

Pleas, Summit County, Ohio, precludes said Court from any further proceedings in the action unless and until the action is remanded from the United States District Court.

Dated: Nov. 4, 2005

*RLW*

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Ray L. Weber (Ohio Reg. No. 0006497)  
Laura J. Gentilcore (Ohio Reg. No. 0034702)  
Mark L. Weber (Ohio Reg. No. 0072078)  
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Of Counsel:

Sylvia A. Petrosky (Ohio Reg. No. 0037791)  
2273 Smith Road  
Akron, Ohio 44333  
Telephone: (330) 867-5288  
Facsimile: (330) 867-5290

Attorneys for Defendants

**CERTIFICATE OF SERVICE**

A true and accurate copy of the foregoing NOTICE TO ADVERSE PARTY THAT ACTION HAS BEEN REMOVED was served upon Attorneys of Record for Plaintiff, Shannon L. Hines, by placing the same in first class U.S. mail, postage prepaid, addressed as follows:

Randolph R. Roth  
John A. Flask  
6393 Oak Tree Blvd., Suite 110  
Independence, Ohio 44131

this 4<sup>th</sup> day of November, 2005.

*RLW*

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Ray L. Weber

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION

SHANNON L. HINES :  
3479 Kent Road :  
Stow, Ohio 44224 : Civil Action No. \_\_\_\_\_  
:  
Plaintiff :  
:  
v. :  
:  
CHARLES F. WALTON :  
2020 Front Street, Suite 301 :  
Cuyahoga Falls, Ohio 44221 :  
:  
and :  
:  
SMITHERS-OASIS COMPANY :  
2020 Front Street, Suite 301 :  
Cuyahoga Falls, Ohio 44221 :  
:  
Defendants. :  
:

**NOTICE OF REMOVAL**  
**28 U.S.C. § 1446**

1. Charles F. Walton ("Walton") and Smithers-Oasis Company ("SOC") are the defendants in the civil action brought on October 14, 2005, in the Court of Common Pleas, Summit County, Ohio, and given Case Number 2005-10-6065. Pursuant to provisions of Section 1441 and 1446 of Title 28 of the United States Code, Walton and SOC remove this action to the United States District Court for the Northern District of Ohio, Eastern Division, which is the judicial district and division in which the action is pending.
2. The grounds for removal of this action are federal question jurisdiction, Sections 1331, 1441 (b) and 1446 of Title 28 of the United States Code.

3. Original and exclusive jurisdiction on the basis of federal question jurisdiction exists because the facts alleged in the Verified Complaint state a civil suit for damages arising under the federal copyright laws. The facts alleged include:

- a. allegations that Hines has been damaged due to SOC's marketing of products based on a Hines' design without the right to do so and without compensating Hines (Paragraph 10) subsequent to the termination of a written contract between the parties (Paragraph 8), which written contract provides that said design "shall be considered as a work made for hire; or shall be assigned to [SOC]" (Exhibit A to the Verified Complaint);
- b. allegations that SOC wrongfully took a Hines' design and products created from the design (Paragraph 14) and wrongfully detained said design and sold said products (Paragraph 15);
- c. allegations that Hines demanded that SOC cease and desist in marketing and selling anything based on the artistic creation of Hines and turn over all monies received from the marketing of the same, which demand SOC refused (Paragraph 16);
- d. allegations that Hines has been damaged in not having exclusive use of her creation and in not receiving the revenues SOC received from the marketing of products based on Hine's design (Paragraph 17); and
- e. allegations that, since being terminated from SOC, and prior thereto, SOC and Walton have planned and implemented a plan to harm Hines by marketing products created by and owned by Hines, and that in implementing said plan SOC

and Walton have sold and are continuing to sell said products all over the United States (Paragraph 19).

4. Because, by executing Exhibit A to the Verified Complaint, Hines agreed her design "shall be considered as a work made for hire," federal copyright law (17 U.S.C. § 201(b)) controls the disposition of Hines' claims.
5. Because Exhibit A to the Verified Complaint is a copyright assignment contract that Hines alleges has been terminated and/or is void, and Hines has directed her pleading against the offending use of her design, federal copyright law controls the disposition of Hines' claims.
6. Because Hines alleges a breach of a copyright assignment contract that is so material as to create a right of rescission in Hines, federal copyright law controls the disposition of Hines' claims.
7. Because Hines alleges that SOC has forfeited rights granted by a copyright assignment contract by non-performance, but has continued to use Hines' design anyway, federal copyright law controls the disposition of Hines' claims.
8. This Notice of Removal is timely under Section 1446(b) of Title 28 of the United States Code because the Complaint in this action was served upon Walton and SOC on October 26, 2005, and this Notice of Removal is filed within thirty (30) days of receipt of the Complaint.
9. Notice to Hines that Case No. 2005-10-6065 before the Court of Common Pleas, Summit County, Ohio, has been removed to this Court, is being given herewith. (See Exhibit 1.)
10. A copy of this Notice of Removal is being filed with the Clerk for the Court of Common Pleas, Summit County, Ohio, herewith. (See Exhibit 2.)
11. Copies of all state court papers served on Walton and SOC at the time of removal.

consisting of the Summons to Walton, the Summons to SOC, the Verified Complaint, a Motion for Temporary Restraining Order, the Certification, the Affidavit in Support of Motion for Temporary Restraining Order, the Proposed Temporary Restraining Order, and an Order issued by Judge Shapiro of the Court of Common Pleas for the County of Summit scheduling a hearing for November 8, 2005, are attached hereto. (See Exhibit 3.)

Dated: Nov. 4, 2005

*R. L. H.*

Ray L. Weber (Ohio Reg. No. 0006497)  
Laura J. Gentilcore (Ohio Reg. No. 0034702)  
Mark L. Weber (Ohio Reg. No. 0072078)  
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Of Counsel:

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2273 Smith Road  
Akron, Ohio 44333  
Telephone: (330) 867-5288  
Facsimile: (330) 867-5290

Attorneys for Defendants

**CERTIFICATE OF SERVICE**

A true and accurate copy of the foregoing NOTICE OF REMOVAL was served upon Attorneys of Record for Plaintiff, Shannon L. Hines, by placing the same in first class U.S. mail, postage prepaid, addressed as follows:

Randolph R. Roth  
John A. Flask  
6393 Oak Tree Blvd., Suite 110  
Independence, Ohio 44131

this 4<sup>th</sup> day of November, 2005.

*R. L. H.*  
Ray L. Weber

IN THE COURT OF COMMON PLEAS  
SUMMIT COUNTY, OHIO

SHANNON L. HINES	:	
3479 Kent Road	:	
Stow, Ohio 44224	:	Case No. 2005-10-6065
Plaintiff	:	Judge Shapiro
v.	:	<b>NOTICE THAT ACTION</b>
CHARLES F. WALTON	:	<b>HAS BEEN REMOVED</b>
2020 Front Street, Suite 301	:	<b>28 U.S.C. § 1446(d)</b>
Cuyahoga Falls, Ohio 44221	:	
and	:	
SMITHERS-OASIS COMPANY	:	
2020 Front Street, Suite 301	:	
Cuyahoga Falls, Ohio 44221	:	
Defendants.	:	

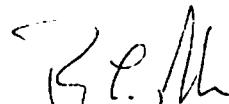
**TO THE COURT OF COMMON PLEAS, SUMMIT COUNTY, OHIO:**

PLEASE TAKE NOTICE that Charles F. Walton and Smithers-Oasis Company, Defendants in this action, have, pursuant to federal law, filed with the Clerk of the United States District Court for the Northern District of Ohio, Eastern Division, a Notice of Removal. Pursuant to 28 U.S.C. § 1446(d), this Court is respectfully requested to proceed no further in this action, unless and until the action is remanded by the United States District Court.

A copy of the Notice of Removal filed with the United States District Court is attached as Exhibit 1 and filed with this document. Notice of Removal has also been given to the Plaintiff in this action. A copy of the Notice to Adverse Party is also attached as Exhibit 2 and filed with this document.

This action was removed to the United States District Court under the authority of 28 U.S.C. §§ 1331, 1441(b) and 1446.

Dated: Nov. 4, 2005



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Ray L. Weber